

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

In re: BONILLA,
Plaintiff.

Case No. [18-cv-05392-VC](#) (PR)

**ORDER OF DISMISSAL WITH
PREJUDICE**

Plaintiff Steven Wayne Bonilla, a state inmate, has filed a document entitled, “Void Judgment, Fraud Upon Court” in which he challenges the validity of his underlying state criminal judgment claiming the state trial court lacked jurisdiction over his criminal case. The Clerk filed this case as a *pro se* civil action under 42 U.S.C. § 1983. Bonilla has been disqualified from proceeding *in forma pauperis* under 28 U.S.C. § 1915(g) unless he is “under imminent danger of serious physical injury” at the time he filed his complaint. 28 U.S.C. 1915(g); *In re Steven Bonilla*, No. C 11-3180 CW (PR); *Bonilla v. Dawson*, No. C 13-0951 CW (PR). The allegations in this complaint do not show that Bonilla was in imminent danger at the time of filing. Therefore, he may not proceed *in forma pauperis*.

Moreover, even if an IFP application were granted, his lawsuit would be barred under *Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994). Bonilla has filed many previous cases with the same claim about the state trial court lacking jurisdiction over his criminal case. No matter how Bonilla titles his complaint, his challenge to the validity of his state criminal judgment belongs in

his federal habeas proceeding where he is represented by an attorney. Accordingly, the case is dismissed with prejudice.

Furthermore, this is not a case in which the undersigned judge's impartiality might be reasonably questioned. *See United States v. Holland*, 519 F.3d 909, 912 (9th Cir. 2008) (absent legitimate reason to recuse himself or herself, judge has a duty to sit in judgment in all cases assigned to that judge).

The Clerk shall close the case. The Clerk shall return, without filing, any further documents Bonilla submits after this case is closed.

IT IS SO ORDERED.

Dated: September 27, 2018

A handwritten signature in black ink, appearing to read 'Vince Chhabria', is written above a horizontal line.

VINCE CHHABRIA
United States District Judge